

HOUSE BILL REPORT

HB 1864

As Reported by House Committee On:
State Government & Tribal Affairs

Title: An act relating to supplemental income requirements for air pollution control authorities.

Brief Description: Exempting certain municipalities from the supplemental income requirements of RCW 70.94.093.

Sponsors: Representatives Newhouse, Hunt and Armstrong.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/3/09, 2/20/09 [DPS].

Brief Summary of Substitute Bill

- Exempts a component city or town with a population of 1,000 or fewer located wholly within a federally recognized Indian reservation from the liability for payment of supplemental income to a local air pollution control authority.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Hunt, Chair; Appleton, Vice Chair; Armstrong, Ranking Minority Member; Alexander, Flannigan, Hurst and Miloscia.

Staff: Pam Madson (786-7111)

Background:

Air pollution control authorities are special purposes local government entities. If activated, they are responsible for enforcing federal, state, and local outdoor air quality standards and regulations including pollution from outdoor burning, wood stoves, and dust clouds. They can be a single county entity or a regional entity of more than one county. There are three local clean air agencies in eastern Washington that each cover one county and four agencies in western Washington that include multiple counties in each agency.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Local air agencies are funded from a variety of sources including: permit fees, penalty assessments, state and federal grants, and supplemental income from cities, towns, and counties located within the agency's boundaries according to a statutory formula based on property value or population or both. There is no statutory exemption for cities, towns, or counties from payment of the supplemental income assessment.

Some local air agencies cover land that is part of the reservation of a federally recognized Indian Tribe. The U.S. Environmental Protection Agency (EPA) enforces air quality laws and regulations for Tribal reservation lands under Federal Air Rules for Reservations.

An Attorney General's opinion (AGO 2007 No. 2) issued in early 2007 addressed the issue of whether cities and towns located within an Indian reservation are subject to assessment for expenses of an air pollution control authority. It concluded that, "*Where an air pollution control authority is coterminous with a county, and portions of the county are within an Indian reservation, and the EPA directly sets air quality standards within the reservation pursuant to federal law, cities and towns lying within the reservation are still fully subject to property taxation and statutory assessments for the expenses of the air pollution control authority.*"

Summary of Substitute Bill:

A component city or town with a population of 1,000 people or fewer located wholly within a federally recognized Indian reservation is exempt from payment of supplemental income assessments to a local air pollution control authority within which it is also located.

Substitute Bill Compared to Original Bill:

The substitute bill applies the exclusion only to cities and towns with a population of 1,000 people or fewer.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is an ongoing issue in Yakima County. There are three cities that are wholly within the Yakama Nation reservation boundaries. The local clean air agency does not have implementation authority over these cities for clean air programs. State law requires that they still have to contribute to the local clean air agency. The cities are seeking

relief from paying for programs that have no effect to them. The EPA has sole jurisdiction on the reservation. This issue was brought forward by the mayor of the City of Harrah. Local governments are seeking relief from costs during these tight budget times.

(Opposed) None.

Persons Testifying: Representative Newhouse, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.